
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 68

**APPEAL TO THE COURT OF APPEAL
AGAINST CONVICTION OR SENTENCE**

Bail with condition of surety

68.8.—(1) Where the court grants bail to the appellant, the recognizance of any surety required as a condition of bail may be entered into before the Registrar or, where the person who has been granted bail is in a prison or other place of detention, before the governor or keeper of the prison or place as well as before the persons specified in section 8(4) of the Bail Act 1976⁽¹⁾.

(2) The recognizance of a surety shall be in the form set out in the Practice Direction, there being an alternative form for use in relation to an appellant granted bail pending his retrial or on the issue of a writ of venire de novo.

(3) Where, under section 3(5) or (6) of the 1976 Act⁽²⁾, the court imposes a requirement to be complied with before a person's release on bail, the court may give directions as to the manner in which and the person or persons before whom the requirement may be complied with.

(4) A person who, in pursuance of an order for the grant of bail made by the court, proposes to enter into a recognizance as a surety or give security shall, unless the court or a judge thereof otherwise directs, give notice to the prosecutor at least 24 hours before he enters into the recognizance or gives security as aforesaid.

(5) Where the court has fixed the amount in which a surety is to be bound by a recognizance or, under section 3(5) or (6) of the 1976 Act, has imposed any requirement to be complied with before the appellant's release on bail, the Registrar shall issue a certificate in the form set out in the Practice Direction showing the amount and conditions, if any, of the recognizance or, as the case may be, containing a statement of the requirement; and a person authorised to take the recognizance or do anything in relation to the compliance with such requirement shall not be required to take or do it without production of such a certificate as aforesaid.

(6) Where, in pursuance of an order for the grant of bail made by the court, a recognizance is entered into or requirement complied with before any person, it shall be the duty of that person to cause the recognizance or, as the case may be, a statement that the requirement has been complied with, to be transmitted forthwith to the Registrar; and a copy of such recognizance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognizance was entered into or the requirement complied with before such governor or keeper.

(1) Section 8(4) was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 186(1) and (2).

(2) Section 3(5) was amended by the Crime and Disorder Act 1998 (c. 37), sections 54(1) and 120(2) and Schedule 10; section 3(6) was amended by the Criminal Justice and Public Order Act 1994 (c. 33), sections 27(2) and 168(3) and Schedule 11, by the Crime and Disorder Act 1998 (c. 37), section 54(2) and by the Criminal Justice Act 2003 (c. 44), section 13(1) and Schedule 37, Part 2.

(7) A person taking a recognizance in pursuance of such an order shall give a copy thereof to the person entering into the recognizance.

(8) Where the court has fixed the amount in which a surety is to be bound by a recognizance or, under section 3(5) or (6) of the 1976 Act, has imposed any requirement to be complied with before the appellant's release on bail, the governor or keeper of the prison or other place of detention in which the appellant is detained shall, on receipt of a certificate in the appropriate form stating that the recognizances of all sureties required have been taken and that all such requirements have been complied with or on being otherwise so satisfied, release the appellant.

(9) Where the court has granted bail pending retrial or on ordering the issue of a writ of venire de novo, the Registrar shall forward to the Crown Court officer a copy of any record made in pursuance of section 5 of the 1976 Act⁽³⁾ relating to such bail and also all recognizances and statements sent to the Registrar under paragraph (6) of this rule.

(10) Any record required by section 5 of the 1976 Act shall be made by including in the file relating to the case in question—

- (a) where bail is granted, a copy of the form issued under paragraph (5) of this rule and a statement of the day on which, and the time and place at which, the appellant is notified to surrender to custody; and
- (b) in any other case, a copy of the notice served under rule 68.29(1) (notice of determination of court).

[Note. Formerly rule 4 of the Criminal Appeal Rules 1968. As to forfeiture where there has been a default in performing the conditions of a recognizance, see rule 68.8.]

(3) Section 5 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), section 27 and Schedule 3, paragraph 1(a), and by the Criminal Justice and Police Act 2001, section 129(1), and is further amended by the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 12 with effect from a date to be appointed.